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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7 JOSHUA LEE REDDING,

8 Plaintiff,

9 v.

10 SNOHOMISH COUNTY JAIL, et al.,

11 Defendants.

Case No. 2:18-cv-01536-BJR

**ORDER DENYING MOTION
REGARDING SPOILATION OF
EVIDENCE**

12 Plaintiff moves the Court to sanction defendant for spoliation of evidence. Dkt. 37 He
13 also asks the Court what his options are regarding spoliation, and if he should file a new
14 complaint under the Fourteenth Amendment. *Id.* In this case, the sole allegation remaining in the
15 case is whether defendant Griffith used excessive force against plaintiff. Plaintiff contends the
16 alleged incident was captured on a jail video tape and that defendant should be sanctioned for
17 spoliation of this evidence.

18 The record shows there was no spoliation. Defendant's counsel submitted a declaration
19 establishing no video tape of the alleged incident exists because jail security tapes are preserved
20 for only 60 days after which the tapes are routinely overwritten and erased. Dkts. 29, 30, and 31.
21 In this case, plaintiff alleges defendant used excessive force in August 2018. The Court
22 dismissed most of plaintiff's claims and ordered service on defendant Griffith on January 18,
23 2019. Dkt. 7. Hence by the time defendant learned about this law suit, the jail security tape was

1 already over written and erased. Defendant's counsel also indicates "at no time has plaintiff
2 requested the video during discovery." Dkt. 29 at 4. Under these circumstances the court finds
3 neither defendant nor his lawyer destroyed the video tape knowing that it was relevant to this
4 case; the tape was already destroyed before defendant knew he was being sued in this case. The
5 Court thus concludes that it would be inappropriate to sanction defendant or defense counsel and

6 **ORDERS:**

7 (1) The motion for sanction, Dkt. 37, is **DENIED**.

8 (2) The Clerk shall provide a copy of this Order to plaintiff.

9 DATED this 1st day of October, 2019.

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13 BRIAN A. TSUCHIDA
14 Chief United States Magistrate Judge
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